## IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF NORTH CAROLINA WESTERN DIVISION

NO. 5:22-CV-0068

YOLANDA IRVING, et al.,  Plaintiffs,	) ) )
vs.	) ) MOTION TO AMEND THE COMPLAINT )
CITY OF RALEIGH, et al.,	)
Defendants.	) )

Plaintiffs, by and through undersigned counsel, move the Court pursuant to Federal Rule of Civil Procedure 15(a)(2) to amend the complaint to conform with the evidence. The proposed Third Amended Complaint is attached as Exhibit A. A redlined version of the Third Amended Complaint is attached as Exhibit B. In support of this motion, Plaintiffs respectfully show the Court as follows:

- 1. This action was commenced on February 22, 2022.
- 2. On July 6, 2022, Magistrate Judge Numbers entered a scheduling order that required all motions to join additional parties or to amend the pleadings to be filed by August 20, 2022.
- 3. Plaintiffs provided requests for production to Defendants on July 21, 2022.
- 4. On January 12, 2023, Defendant Sgt. Rolfe provided his personnel file which included Internal Affairs Interviews with members of the VICE Unit.
- 5. Sgt. Rolfe was deposed on January 17, 2023, Detective Monroe was deposed on January 31, 2023, and Detective Rattelade was deposed on February 28, 2023.

- 6. The proposed amendments, in large part, are based off of evidence learned from the personnel file provided by Sgt. Rolfe or from the depositions listed above.
- 7. Federal Rule of Civil Procedure 15(a)(2) permits "a party [to] amend its pleading only with the opposing party's written consent or the court's leave. The court should freely give leave when justice so requires."
- 8. Good cause exists to grant Plaintiffs' motion to amend as the filing of this motion was not unjustly delayed and it will not cause undue prejudice to the Defendants.

WHEREFORE, Plaintiffs respectfully request that the Court enter an order granting Plaintiffs' motion to amend the complaint and deeming the Third Amended complaint filed.

Respectfully submitted, this the 7th day of March 2023.

Abraham Rubert-Schewel (N.C. Bar #

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